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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,112	06/24/2002	Lars Egnell	CISCP728C1	9119
54406	7590	07/07/2005	EXAMINER	
AKA CHAN LLP / CISCO 900 LAFAYETTE STREET SUITE 710 SANTA CLARA, CA 95050			KAO, CHIH CHENG G	
			ART UNIT	PAPER NUMBER
			2882	

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/089,112

Applicant(s)

EGNELL ET AL.

Examiner

Chih-Cheng Glen Kao

Art Unit

2882

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

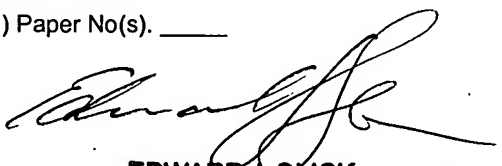
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 2-7,9,10 and 12-14.
Claim(s) objected to: _____.
Claim(s) rejected: 15,17-22,24-29 and 31-35.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicants argue that the Examiner has effectively removed the Applicants' claim language of "a pair of add/drop modules corresponding to one of the plurality of channels". The Examiner disagrees. Milton et al., as alleged by Applicants, discloses demultiplexers and multiplexers, which the Examiner has interpreted as add and drop modules, corresponding to a plurality of channels. Because of the transitional term "comprising" being an inclusive or open-ended term not excluding additional or unrecited elements, the additional or unrecited elements in "a pair of add/drop modules corresponding to one of the plurality of channels" are the other channels in the plurality of channels of Milton et al. besides the one channel. In other words, modules corresponding to a plurality of channels reads on modules corresponding to one of a plurality of channels and another one of a plurality of channels and another and so on, due to the open-ended nature of the transitional term comprising. If the recitation being claimed were "a pair of add/drop modules corresponding to only one of the plurality of channels", a pair of add/drop modules corresponding to a plurality of channels would not read on "a pair of add/drop modules corresponding to only one of the plurality of channels". A pair of add/drop modules corresponding to only one of the plurality of channels and another one of the plurality of channels would not make sense, since the pair of add/drop modules corresponds to only one of the plurality of channels, initially. However, the features upon which Applicants relies (i.e., "a pair of add/drop modules corresponding to only one of the plurality of channels") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

To put the above argument another way, "a pair of add/drop modules corresponding to one of the plurality of channels" effectively includes "a pair of add/drop modules corresponding to at least one of the plurality of channels" or "a pair of add/drop modules corresponding to a plurality of channels" due to the open-ended nature of the transitional term "comprising". On the other hand "a pair of add/drop modules corresponding to only one of the plurality of channels" could not effectively include "a pair of add/drop modules corresponding to at least one of the plurality of channels" or "a pair of add/drop modules corresponding to a plurality of channels".

Applicants further argue that Csipkes et al. is not an effective reference against the rejected claims. The Examiner disagrees. Csipkes et al. teaches housing and connectors for optical devices. It would have been an obvious modification to incorporate the add/drop modules, which are optical devices, with the housing and connectors of Csipkes et al. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. With the teaching of housing and connectors for optical devices of Csipkes et al. and the add/drop modules of Milton et al., the combination would have suggested housing and connectors for add/drop modules. Although the combination of references does not expressly suggest the particulars of the claimed housing, the teachings of the two references would have found them to be obvious.

Therefore, Applicants' arguments are not persuasive, and the claims remain rejected.